

Ackerman, Joyce

From: Stovall - CDPHE, Curtis <curtis.stovall@state.co.us>
Sent: Tuesday, July 11, 2017 7:20 AM
To: Alan Linton; Dave Stewart, P.E.; Richard Dean; Mark Adams; Fronczak, David; Jonathan H. Steeler (JSteeler@sennlaw.com); jason.king@coag.gov; Ketellapper, Victor; Don Hostetter; Edward Smith; Henderson, Jerry; Dan Gudgel; Ackerman, Joyce; Randy Perila (Randy.Perila@dphe.state.co.us); Aaron Rubin; Ikenberry, Doug; Doug Jamison; MacGregor - CDPHE, Kelly; Walker - CDPHE, David; O'Reilly, Maureen; Piggott, Amelia
Subject: Redtail Ranch Meeting Agenda
Attachments: 2017-7-11 Redtail Ranch Meeting Agenda - Steeler email dated 5-25-17.pdf

Hello All,

Attached is an email from Jon Steeler (Redtail Ranch attorney) that summarizes today's meeting agenda.

Today's meeting is in Conference Room C1E starting at 1:00 pm. When you arrive for today's meeting please check in at the security desk at the main entrance on the east side of Building A. Building A is the 5-story building adjacent to Cherry Creek Drive South. You will be given a card key that will provide access to Buildings B and C. Conference Room C1E is near the southeast corner of Building C. Building C is the furthest south of the three buildings that make-up CDPHE's campus. You can either walk through or around Building B to get to Building C. Visitor parking is available around all three buildings.

See you this afternoon.

Thanks,
Curt

--
Curt Stovall, P.E.
Environmental Protection Specialist
Solid Waste Permitting Unit
Solid Waste and Materials Management Program



COLORADO
Hazardous Materials
& Waste Management Division
Department of Public Health & Environment

P 303.692.2295 | F 303.759.5355
4300 Cherry Creek Drive South, Denver, Colorado 80246-1530
curtis.stovall@state.co.us | www.colorado.gov/cdphe/hm

STATE OF
COLORADO

Stovall - CDPHE, Curtis <curtis.stovall@state.co.us>

FW: Redtail Ranch**Jason King** <Jason.King@coag.gov>

Fri, May 26, 2017 at 3:41 PM

To: "Stovall - CDPHE, Curtis (curtis.stovall@state.co.us)" <curtis.stovall@state.co.us>, "Smith - CDPHE, Edward (edwardh.smith@state.co.us)" <edwardh.smith@state.co.us>, "Martin OGrady - CDPHE (martin.ograde@state.co.us)" <martin.ograde@state.co.us>, "Fonda.Apostolopoulos@state.co.us" <Fonda.Apostolopoulos@state.co.us>, "randy.perila@state.co.us" <randy.perila@state.co.us>

This from Steeler. Let's tee it up for the 6/5 internal meeting.

FYI – I'm in Vancouver for western states project conference all next week. I'll be checking email and try to respond.

From: Jonathan H. Steeler [mailto:JSteeler@sennlaw.com]**Sent:** Thursday, May 25, 2017 4:26 PM**To:** Jason King**Cc:** 'Richard Dean'; 'Dave Stewart'**Subject:** Redtail Ranch

Jason: As we briefly discussed last week at the CLE, my client would like to schedule a meeting with you, your clients at CDPHE and anyone else you would like to invite. We believe that the meeting would be non-technical in nature. We would like to focus on how best we (both CDPHE and Redtail Ranch LLC) proceed to address issues at the site as set forth below in a bit more detail

Early next week we will be submitting to CDPHE a phase 2 investigation plan that will call for further investigation of a number of items including without limitation further exploration of the shallow groundwater regime at the site and determining whether additional intact barrels exist at the site. Of course this would be done under CDPHE oversight. My client recognizes the need to carry this effort out and is committed to undertaking this as soon as CDPHE approves this next phase of investigation. It is hoped that the results of this investigation will allow us to move forward with (i) a remedial plan for all organic contaminated soil at the property, (ii) removal and disposal of all intact barrels remaining at the property, (iii) covering the existing solid waste at the site with an approved cap, and (iv) establishing a long term shallow groundwater monitoring program.

While we understand that the technical specifics of the foregoing will need to be approved by CDPHE and my client is committed to undertaking those efforts, my client would like to meet with CDPHE to discuss the following matters.

1. As you know, CDPHE's most recent involvement at this site was triggered in late 2015 or early 2016 by a request from the Town of Erie to CDPHE to provide to Erie input on the nature of any environmental and public health concerns with regard to housing at the property. We understand that we are not at a point where CDPHE could issue any sort of positive response as it pertains to the area of the property referred to as the "work area" in the recent reports. However we would like to discuss what, if any, additional information may be needed before CDPHE will be in a position to issue such a finding for the property south of the "work area." While we recognize the need to have the Town of Erie's input on these issues, at this time we feel a discussion of this issue with only CDPHE would be appropriate so as to assure that my client and CDPHE are on the same page with regard to the timing of such a finding.
2. We understand that CDPHE has questions regarding the water quality conditions of the deep water regimes at the property. While my client understands CDPHE's desire for this investigation and potential cleanup, we do not feel

that this information would affect environmental or health concerns for the portion of the property to the south of the work area. If your client disagrees with this assessment we can certainly discuss at a more technically focused meeting. In any event, we would like to discuss with your client what options we have to jointly bring IBM and Sundstrand as well as any other potentially responsible parties to the table to undertake this portion of the investigation and any clean up required. We are concerned a simple letter from my client will not get the proper attention. Alternatively, instituting a private cost recovery claim is an expensive and time consuming effort. As I believe my client's actions have demonstrated my client has acted in good faith in its investigation of the property. For my client to have to incur the costs of instituting this sort of action on top of the costs of investigation incurred to date as well as additional investigative costs and the ultimate cleanup costs, it is manifestly unfair and may jeopardize the project's financial viability.

3. Assuming we are able to achieve agreement on the additional investigation, a clean-up/monitoring plan and an appropriate path for resolving the Town's concerns regarding the southern portion of the property, we would like to discuss my client's plans for long term ownership and development of the property including the work area. Assuming that we resolve the Town's concerns and we can progress the entitlement process, following completion of the investigation that is outlined above and completion of remedial activities, my client intends to convey the portion of the property known as the work area into a metropolitan district which would be responsible for long term ownership, operation and maintenance. This entity would have an ongoing revenue stream from oil and gas royalties as well as assessments on the home owners. We are also looking at additional stakeholder security for future costs and liabilities in the form of insurance and other surety approaches to assure long term viability to carry out the metro district's long term obligations.
4. While we have discussed the availability of brownfields credits in the past we would like to raise this issue again. Because of my client's innocent land owner status and its ongoing willingness to address a problem that was not of its making, we would like to discuss whether or not there are any options available where my client could avail itself of those credits while assuring CDPHE that it maintains adequate oversight. I recognize this is out of the ordinary; but from my client's perspective the money spent to date on this project and the anticipated cleanup cost are, from its perspective, out of the ordinary given the fact that it obtained a Phase I report indicating that there was no indication of landfilling at the site prior to acquiring the property. It may be appropriate if we can get Doug Jamison and/or Fonda at the meeting to see what we can do on this front. Given Doug's involvement in superfund issues he may also be helpful on the IBM/Sundstrand discussion.

It is entirely likely you and your client may have additional issues they would like to address and we are more than happy to add those to the mix. Thanks for your consideration of the matters raised above. If you think a meeting of this nature would be helpful and have some dates that may work for your group, please let us know and we can coordinate schedules. Jon

Jonathan H. Steeler
Senn Visciano Canges P.C.
1700 Lincoln Street, Suite 4500
Denver, CO 80203
Direct: (303) 291-4039
Phone: (303) 298-1122
Cellular: (303) 349-4220
Fax: (303) 296-9101
JSteeler@sennlaw.com
www.sennlaw.com

SVC | SENN VISCIANO CANGES P.C.

PLEASE NOTE THAT OUR FIRM WILL BE MOVING JUNE 2nd -4th.

We anticipate our phone and email will be down the afternoon of Friday, June 2nd. Please make arrangements with your attorney if you anticipate needing to reach him or her during this time.

Effective June 5, 2017 our address will be:

7/11/2017

State.co.us Executive Branch Mail - FW: Redtail Ranch

Senn Visciano Canges P.C.

Wells Fargo Center

1700 Lincoln Street, Suite 4300

Denver, CO 80203

All phone, fax and email will remain the same.

EMAIL NOTICE AND DISCLAIMER: The information contained in this communication (including any attachments) is for the sole use of the intended recipient. It may contain proprietary, confidential or legally privileged information which may be exempt from disclosure under applicable law. No confidentiality or privilege is waived or lost by any mistransmission. If the reader of this message is not an intended recipient, you are hereby notified that any unauthorized review, use, distribution, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please reply to the sender and destroy all copies of the message.